



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

Sherman

Serial No.: 09/544,108

Group Art Unit: 1648

Examiner: Brown. T.

Filed: April 6, 2000

Title: Composition and Method of Treating Hepatitis C

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LETTER ACCOMPANYING REPLACEMENT SECTIONS OF APPEAL BRIEF

Hon. Commissioner of Patents

and Trademarks

PO Box 1450

Alexandria, VA 22313

Sir:

In the Notification of Non-compliant Appeal Brief, the Examiner has requested a copy of the Declaration by Dr. Sherman filed on January 2, 2006 as an attachment to the Evidence Appendix. Appellant submits herewith the following items:

1. Substitute Table of Contents (referencing attached Sherman Declaration)
2. Substitute Evidence Appendix (referencing when Declaration was entered)
3. Copy of Declaration Under 37 CFR 1.132 signed 12/19/06, entered 6/13/06

Entry and favorable consideration are respectfully requested.

Respectfully submitted,

Date: October 14, 2008

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(ix.)EVIDENCE APPENDIX

I. The Declaration signed December 19, 2005 by Dr. Kenneth Sherman and filed with the Patent Office on January 2, 2006, entered in the June 13, 2006 Office Action (page 2, second paragraph), established efficacy of the claimed method and pharmaceutical composition. The Applicants showed to the PTO that improved results were achieved with a combination therapy over using either α -interferon alone or thymosin- α alone. These results were unexpected by the Applicant because no one prior to this invention had even suggested using thymosin- α for the treatment of Hepatitis C let alone a combination therapy. Hence, the first part of the Examiner's final rejection that no improved results have been demonstrated is not true.